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THE MASSACHUSETTS GENERAL COURT

A Thumbnail Description of Its History and Procedure

by

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Speaker of the House

THE MASSACHUSETTS GENERAL COURT
A Brief Description of its History and Procedure

The General Court of Massachusetts, also called the State Legislature, has been described as "one of the most democratic and representative groups of lawmakers in the world."*

The Massachusetts House of Representatives has been a continuous legislative body for more than 300 years. With the exception of the House of Burgesses of Virginia, it is the oldest legislative body on this continent; and, with the exception of the House of Burgesses and the English Parliament, it is the oldest continuous legislative body in the world.**

Colonial Government

The history of government in Massachusetts goes back to the settling of Plymouth and the signing of the Mayflower Compact in 1620. The compact has been called the first evidence of self-government in New England. The first general representative assembly, incorporating what are now the counties of Plymouth, Barnstable and Bristol met in Plymouth in 1639.

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* Massachusetts State Government: A Citizen's Handbook, written by the League of Women Voters.

** From a speech by the late U. S. Senator Henry Cabot Lodge, 1st, delivered in 1907.

The history of the General Court of Massachusetts goes back to the settling of the Boston area in 1630 under the Massachusetts Bay charter which was granted the preceding year. This charter specified that, four times a year, there was to be a "great and general court" of the freemen of the trading company to whom the charter was issued.

At these meetings, the freemen, who included, always, the Governor and six assistants, might make laws and ordinances "for the good and welfare of the said company and for the government and ordering of the said land and plantation and the people inhabiting the same..."

Substitute, the word, "Commonwealth," for the words, "said company," and eliminate the reference to "Plantation," and the duties of the General Court today are much the same.

The history of the General Court, as a bicameral body, dates back to 1644, when it was decided that for legislative purposes, the deputies (now Representatives) and the court of assistants (to the Governor) should meet separately.

Voter Qualification

Massachusetts Bay, however, did not have a government that was truly democratic. Qualifications of voting were based on church membership and ownership of property, thus limiting suffrage to the middle and upper classes.

The charter of 1691 sought to relieve the individual citizen from the rule of the church and to give him a more equitable share in the colony's government. At the same time, however, it tried to make the colony as whole more dependent on England.

The Council, as the upper House was called under this charter, was composed of 28 members who were elected by the lower House. The House of Representatives was elected annually by the free holders in town meetings, two from each town. Freeholders or voters were those who held land worth 40 shillings or had other property worth 40 pounds.

This sum represented a substantial amount of wealth in those times. At the same time religious qualifications for voting were dropped. "This change from church membership to property ownership as the requirement for voting was the most important in the entire charter for it signified the end of rule by the clergy."*

Massachusetts, under this charter, had added to its already extensive domain, the Plymouth Colony, the islands of Nantucket and Martha's Vineyard, both of which had belonged to New York; and Acadia, now Nova Scotia. The grant of Maine was also confirmed. To it now belonged the entire Eastern Coast from Rhode Island to St. Lawrence except for 17 miles in New Hampshire.

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* Massachusetts - History and Government of the Bay State, Reid and Regan.

The League of Women Voters, in its citizens' Handbook, speculates that the common, present-day practice of earmarking a tax for a specific purpose stems from a similar policy of the colonial assembly which tied or attempted to tie the raising of money to the purposes for which the money was to be spent.

Revolutionary War Government

In 1774, after ever-increasing difficulties with England, had swollen almost into open warfare, the Massachusetts assembly formed itself into a provincial legislature, meeting without the Governor or council, for the direction of the affairs of the Commonwealth. The following year a temporary government was set up. This consisted of a provincial assembly which elected a council, gave it both legislative and executive powers and chose a President. For five years this was the government of the Commonwealth.

Dawn of Today

The present Constitution, most of which was drafted by John Adams, was ratified in 1780. Most of the provisions of that document, which was used as the basis for the Constitution of the United States, are still in effect today.

An important provision of the Constitution is that the legislative power is exercised by the General Court; the executive power by the Governor, Lieutenant-Governor and Council, and the judicial power by the courts.

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There have been several changes, however, regarding the legislative branches. The Constitution, as ratified in 1780, provided for 40 Senators, chosen from specially designated districts in numbers proportionate to the taxes paid by those districts. All had to be men of real property "of the value of 300 pounds at least or possessed of personal estate to the value of 600 pounds at least."

As opposed to the representation of property in the Senate, the House, under the Constitution, represented people upon the principle of equality.

The town was the election district with one Representative for each 150 qualified voters, and an additional Representative for each additional 225 voters. There were property qualifications, but they were one-third of those for Senators. Voters, too, had a property qualification, but this was only one-hundredth of that for each Senator.

Property Qualification Ended

The property qualification for voters was eliminated in 1821 and that for members of the Senate and House in 1840. The political year was changed from the last Wednesday in May to the first Wednesday in January.

The Size of The House

In 1836, the basis of representation in the House was changed to one for every 300 voters and an additional one for every 450 additional voters. This further provided a district system, whereby two or more towns could join in a Representative district for a period of ten years. An 1840 amendment called for one Representative from every city or town of 1200, with an additional member for every additional 2400 voters. Smaller towns could unite to form districts. The present system of 240 Representatives was adopted by an 1858 change which saw Representatives elected on a strictly voting population basis with reasonably equal representation.

Until 1858, the size of the House varied greatly from year to year. For example there were 635 members in 1837; 480 in 1838; 402 in 1852 and 288 in 1853. The 1858 change also saw a redistricting on a voting population basis made mandatory every ten years, a requirement that has always been carried out.

Terms of Office

Members of the Senate and House and the Constitutional officers, heretofore, had been elected annually. In 1920, however, an amendment to the Constitution changed this to two-year terms.

The General Court has met annually since 1832, except for a brief period in the early forties, when biennial sessions were held. It is significant that, each off-year when no session had been scheduled, business of an emergency nature, required the holding of a special session.

Opening Day

The Legislature is required to meet on the first Wednesday in January. The opening session of each newly elected Legislature is called to order by the oldest member of each branch in point of service.

After the election of each member of each branch has been verified in routine fashion, the members are sworn in in their separate Chambers by the Governor in the presence of the Lieutenant-Governor, Executive Councillors and the Secretary of State.

The 40 Senators and 240 Representatives then elect their own presiding officers - a President for the Senate and a Speaker for the House. The presiding officers then name standing committees for the ensuing year.

The second-year ceremonies differ only in the fact that members have already been sworn and the presiding officers, who call their own branches to order, already have been elected.

Colonial Relic

An interesting sidelight is the fact that the General Court still uses committees to march back and forth between the various branches and the Governor's office to inform each other and the Chief Executive of what they have done and are ready to do. Such committees are escorted by the Sergeant-At-Arms or a Doorkeeper clad in a morning court and striped trousers and who carries a ceremonial staff, more formally known as a mace.

Paradoxically, the Clerks of the branches usually notify each other by that modern instrument of communication, the telephone, of what has been done and that the committee or committees are on their way.

This custom dates back to colonial days and continues to fascinate visitors and interest everyone. Incidentally, joint sessions are always held in the House Chamber, with the huge, center doors used only to admit the Governor, the Senate, the aforementioned special committees and distinguished guests.

The Chambers

The Senate now sits in what was originally the House Chamber directly beneath the Golden Dome of the main or Bullfinch Building. The original Senate Chamber is now a Senate reception room and is furnished with many priceless antiques. The present House Chamber is in an annex, the cornerstone of which was laid in 1890.

The cornerstone of the present State House, which is called, ironically, the new State House, was laid in 1790. The old State House, still standing at Washington and State Streets, is considered the oldest state building in the United States.

The second day of the first year, Senate and House meet in joint convention at which the Senate President administers the oath of office to the incoming Governor, Lieutenant-Governor and Executive Councillors.

Simultaneously, the outgoing Governor takes a ceremonial, long lonely walk down the front steps of the State House into private

life - unless, of course, he has been elected to higher office. The new Governor then delivers his inaugural address.

On the first day of the second year of the session, the Governor customarily delivers his annual message. This, however, can and has been delayed until a later date if the Governor so desires.

The Legislature, through its Clerks, then divides the recommendations of the message into separate parts and they are referred to the appropriate committees.

A Session Gets Underway

The General Court, however, began its preparation for the session, either first or second year, a month before that.

The first step in enactment of any law is the filing of a petition with the Senate or House Clerk. Deadline for such filing, in Massachusetts, is the first Wednesday of December.

The Right of Free Petition

Anyone may present a petition for legislation. Although he cannot file it personally, he is entitled to request his Senator or Representative to file it for him. The legislator may see fit to sign the petition himself, along with the non-legislator of non-legislators presenting the petition. Or, if he prefers, he may see fit to file it "by request." But such requests are rarely if ever refused.

Most petitions are drafted by Senate or House Counsel to make sure they are in proper form. The petitioner, however, may draft his own proposed legislation, if he so desires.

Next step is the entry of a petition in the Docket Book of the Senate or House Clerk, depending upon the branch in which the petition is filed. Here they are numbered chronologically as they are filed.

OUR COMMITTEE SYSTEM

The petitions then are referred to the appropriate committee and given a number. Theoretically, this is done by the presiding officer of the appropriate branch but as a practical matter, this routine work is done by the Clerks of the two branches. Petition number is entered in the Docket Book. The petitions and the accompanying bills are then sent to the printers.

The Senate and House Journals for the first day of each session contain in printed form a complete listing of all petitions filed before the December deadline for action at the session. Such matters are considered automatically. Late-filed petitions, however, ultimately require a four-fifths favorable vote by both branches acting separately to secure admission.

These Journals, incidentally, are published for each day of each session of each branch. Proofs are available for scrutiny in the offices of the Senate and House Clerks the morning after each session, while printed copies are available in a matter of hours for distribution to the General public.

Early in the session, the members of each committee hold executive sessions and set up hearings on every petition referred to them. These public hearings are not required by the Constitution or by legislative rule, but are a matter of long-standing custom which is seldom ignored.

Also early in the session, the first edition of the Legislative Bulletin appears in printed form. This contains a complete list of every committee and its members, and of every petition referred to that committee.

Later editions will show the hearing date, and the disposition of the bill, whether a required reference to another committee or a redrafting with a new number. Ultimately, these later editions will trace a petition through its disposal, whether this is a new law, or its demise. It also will contain a complete index by subject matter.

Once the hearing session is underway, a Daily list of hearings also is issued. This shows hearings by committee, plus the number of the room in which the hearing is held and the time of the hearing. Copies of petitions, more commonly called bills, the Legislative Bulletin and the hearing lists may be obtained without charge from the Legislative Document Room on the fourth floor of the State House. Technically, a petition does not become a bill until it has been reported favorably by a committee.

Several bills are set up for hearing by each committee on the same day. The bills are usually heard in the order in which they appear on the hearing list, although this is a matter to be determined by the presiding officer at the hearing. In the absence of the Senate Chairman, the House Chairman presides. Each committee has its own Clerk, usually a House member whose duty is to keep track of what the committee does.

DAILY PROCEDURE

As soon as committee reports start appearing, the Senate and House start using printed Calendars of the day's agenda. These show every matter to be considered that day and its status. Other matters, except enactment of legislation, or adoption of emergency preambles can be brought up for action only by suspension of rules, which requires a two-thirds vote. In the case of routine non-controversial business, however, this is almost automatic.

The sessions of each branch always begin with a prayer, offered by the Chaplain

After routine business is out of the way the branch then takes up the disposition of the Calendar. Non-controversial business is disposed of promptly. If, however, any member of the branch wishes to change the committee recommendation, he calls out "pass" and the item is laid aside until all the non-controversial matters have been disposed.

If a committee has reported favorably on a measure, it appears on the Calendar, first on question of being ordered to a third reading, then on the following day on the question of being passed to be engrossed.

That last expression, "passed to be engrossed" in one that frequently causes confusion outside legislative circles. It simply means that in the opinion of the branch involved, the bill is in proper form and ready to be engrossed, by a special machine, on parchment, in the office of the Secretary of State.

Once bills have been agreed, to in form and content, by each branch, the engrossing process takes place, an emergency preamble is adopted if it is felt the bill should become effective at once, and it is then passed to be enacted by both branches and sent to the Governor for his approval. These last two stages - emergency preambles and enactment - do not appear on the Calendar.

A two-thirds standing vote of the membership of each branch is required for the adoption of an emergency preamble. This can be challenged by five members, in the House and in the Senate, however, and a roll call obtained. This challenge, is rarely invoked.

A Governor can sign a bill, veto it, send it back with suggested amendments or let it become law without approval. A two-thirds roll call vote in each branch is required to over-ride a veto, but this is sometimes obtained.

SUMMARY

And so it goes. The General Court and many of its procedures date back, in present form to 1780, although its history stretches back a century earlier.

It has been described as a slow awkward, and cumbersome system but the fairest in the world. The individual citizen and the individual legislator, under the Constitution, under Massachusetts statutes and under legislative rules are assured of fair, equal treatment.

The General Court is constantly seeking ways to improve procedure But no one, even the most harping critic, wants to change its principles.